

### REMARKS

Applicants have amended the specification to provide sequence identifiers for all of the disclosed sequences. The sequence identifiers added to the specification correspond to those in the Computer Readable Form (CRF) of the Sequence Listing that was filed with the present application. Applicants also submit herewith a Paper Copy of the Sequence Listing that matches the CRF, and request entry of the new Paper Copy into the specification. No new matter has been added.

In light of these amendments and the following remarks, Applicants respectfully request reconsideration and allowance of claims 26-41.

#### Sequence listing

The Examiner stated that while the CRF of the sequence listing correctly contains 190 sequences, the paper copy lists only 165 sequences. In addition, the Examiner noted that sequences disclosed on pages 63-64, 66, 75, 77, and 79 do not have sequence identifiers.

Applicants submit herewith a Paper Copy of the Sequence Listing with 190 sequences, together with a statement that the Paper Copy matches the CRF. In addition, Applicants have amended the specification at pages 63-64, 66, 75, 77, and 79 to provide sequence identifiers for the sequences disclosed therein. Thus, the present application is in compliance with 37 C.F.R. §§ 1.821-1.825.

#### Double patenting

The Examiner rejected claims 26-41 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5-9, and 12-15 of U.S. Patent No. 6,720,479 (the '479 patent). The Examiner stated that the conflicting claims are not patentably distinct from each other because the instant claims are generic to all that is recited in claims 1-3, 5-9, and 12-15 of the '479 patent.

The Examiner also provisionally rejected claims 26, 29, 30, 33-36, and 38-40 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 5 of copending Application No. 10/395,607 (the '607 application). The Examiner

Applicant : David A. Wright et al.  
Serial No. : 10/799,870  
Filed : March 12, 2004  
Page : 7 of 7

Attorney's Docket No.: 08411-032002 / ISURF 02410-P1C1

stated that the conflicting claims are not patentably distinct from each other because the instant claims represent obvious variants of the claims in the '607 application.

Applicants submit herewith a Terminal Disclaimer. In view of this submission, Applicants respectfully request withdrawal of these rejections.

### CONCLUSION

Applicants submit that claims 26-41 are in condition for allowance, which action is respectfully requested. The Examiner is invited to telephone the undersigned agent if such would further prosecution. Applicants believe that no fee is due. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: November 5, 2004

Elizabeth N. Kaytor  
Elizabeth N. Kaytor, Ph.D.  
Reg. No. 53,103

Fish & Richardson P.C., P.A.  
60 South Sixth Street  
Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070  
Facsimile: (612) 288-9696